

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-5 are amended in the present application to better conform to the standard US practice of claim drafting. The scope of the claims is believed to be the same as the previous corresponding claims on the record. No new matter has been added.

In the outstanding Office Action, Claims 1-5 were rejected under 35 U.S.C. § 112, first paragraph; Claims 1-5 were rejected under 35 U.S.C. § 112, second paragraph; and Claims 1-5 were rejected under 35 U.S.C. §102(e) as being anticipated by Kida (Patent Application Publication US 2006/0092155, hereinafter "Kida").

Applicant respectfully traverses the rejection of Claims 1-5 under 35 U.S.C. § 112, first paragraph for failure of the Office to follow the established procedure for a rejection under that section of the code, thus resulting in a failure to establish a prima facie case therein. The Office is respectfully reminded that "***[t]he examiner has the initial burden***, after a thorough reading and evaluation of the content of the application, of presenting evidence or reasons why a person skilled in the art would not recognize that the written description of the invention provides support for the claims. ***There is a strong presumption*** that an adequate written description of the claimed invention is present in the specification as filed" (see, for example, MPEP § 2163, citing Wertheim, 541 F.2d at 262, 191 USPQ at 96, emphasis added).

Without addressing the merits of Applicant's specification and based at least on (1) the above-cited required procedures, (2) the fact that the materials presented under quotes on the third paragraph of page 2 of the outstanding office action were found in the originally filed specification (see, for example, paragraph [0015] of the publication of this application and original Claim 1), and (3) the fact that no further explanations were provided for the unsubstantiated conclusion that the outstanding claims do not comply with the written requirement, Applicant respectfully submits that the initial burden placed in the Office to support such a rejection has not been met. As such, Applicant respectfully requests that either the proper procedure be followed for a rejection under 35 U.S.C. § 112, first paragraph for a failure to comply with the written description requirement or the rejection be withdrawn.

Claims 1-5 were rejected under 35 U.S.C. §112, second paragraph. Applicant notes with appreciation the time taken by the Examiner to identify specific areas needing revisions. Applicant submits that the amendments to Claims 1-5 enclosed herein have overcome these rejections under 35 U.S.C. §112 and respectfully request their withdrawal. It is believed that all pending claims are definite and no further rejection on that basis is anticipated. If, however, the Examiner disagrees, the Examiner is invited to telephone the undersigned who will be happy to work with the Examiner in a joint effort to derive mutually acceptable language.

Turning to the anticipation rejections, Applicant respectfully submits that Claim 1 is not anticipated by Kida because each and every element as set forth in that claim is

not found, either expressly or inherently described, in the cited reference. In an anticipation rejection, the identical invention must be shown in as complete detail as is contained in the claim.¹

According to a feature of the invention as set forth in Claim 1, a computer-based device configured to generate a three-dimensional image for facilitating the localization within a place comprises a computer program installed in a piece of electronic equipment that searches a place of interest of a user and generates a three-dimensional image showing the shortest and best route by means of an object in movement.

As disclosed in the Specification, conventional systems physical distribution of stores, items, etc, is changeable and peculiar for each situation, requiring unexpected and long searches on the part of the interested parties. This fact, consequently, generates discomfort and difficulty to the users, due to the enormous volume and existing varieties of items of interest inside of shopping centers, museums or similar locations. As a way of brighten up the situation, the usual form of searching departments, stores, items in exposition, numbered seats and strategic points, such as point of medical and sanitary attendance and emergency exits, is made through visual or sonorous indications, by maps, plans, brochures and point of information, however, those dispositions are uncomfortable or difficult to use, for example: the visual

¹ See MPEP 2131: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," (Citations omitted) (emphasis added). See also

indications pointing the direction to be followed by the user, however they are restricted to the basic codes of classification, such as feeding square, clothes, parking, exit, information, among other headings, not accurately specifying the desired place, compelling the user to search by means of trial and error, inside the whole group; the sonorous indications point the direction to be followed by the user by means of voice, however imperceptible when the place contains sonorous noises that hide the sound of the emitting source of the information; maps and pamphlets, which dimensions most of the time are limited and insufficient to place all the useful information for the localization of the points of interest of the user. (See, for example, paragraphs [0007]-[0009] of the publication of this application.) There is, therefore, in the current request of patent, a projected and developed device with the highest technology, to get enormous feasibility and efficiency, making possible to be applied in real time, showing the user where the products searched are located, the pieces and works of art (in the museum case), the chairs or tables (in the case of houses of entertainment), departments (in the case of companies), among other innumerable examples, awakening the fidelity of the consumer. (Id. [0003]). Claim 1 has been amended to more clearly recite such an innovative device.

Kida, in its abstract, states that its disclosure relates to the provision of a position related information presentation system that allows a user to experience as if the user had actually walked round and collected information about an area. A 3D

map/information superimposed displaying portion reads 3D map data from a 3D map storing portion and displays area information such as town information related to the area displayed on the 3D map superimposed on the 3D map to the user. When the user changes a display of the 3D map by using a display change inputting portion, a position information searching portion searches for information related to a new display position from an area information storing portion. About the display of the area information superimposed on the 3D map, the field of view determining portion detects superimposing of one object on another such as buildings when viewed from the current position of the user using the map of the map database. A position information filtering portion searches for information related to objects visible to the user from the searched area information.

In its rejection of Claim 1, the Office states that paragraphs [0018], [0039], [0043], [0197], and [0209] of Kida anticipates the subject matter of Claim 1. Applicant respectfully disagrees and submits that an element-by-element indication to substantiate such a conclusory statement has not been provided. Consider as an example, but not as a limitation to Applicant's ability to argue such an unsubstantiated conclusion, in none of the listed paragraphs of Kida one finds disclosure of the generation of a three-dimensional image showing the shortest and best route ***by means of an object in movement.***

Applicant respectfully submits that Claim 1 is not anticipated by Kida. This cited prior art reference does not disclose the generation of a three-dimensional image as recited in this claim. Claims 2-5 should be allowed, among other reasons, as depending either directly or indirectly from Claim 1, which should be allowed as just explained.

In addition, Claims 2-5 are further considered allowable as they recite other features of the invention that are not disclosed, taught, or suggested by the applied reference when those features are considered within the context of the subject matter recited in independent Claim 1. For example, Claim 2 recites the advantageous feature of execution in real time. Contrary to what has been asserted by the Office, Kida is silent to any execution in real time in paragraphs [0034], [0043], and [0113]. Similar arguments can be presented to the rejection of Claims 3, 4, and 5. Therefore, Applicant respectfully requests that the anticipation of Claims 1-5 under 35 U.S.C. §102(e) be withdrawn.

In addition, based at least on the above-summarized arguments, the issuance of a final rejection was premature when several required procedure for proper rejections under 112 and 102 have not been followed by the Office, thus not permitting Applicant to properly advance prosecution of its application before the Office. As such, Applicant also respectfully requests withdrawal of the finality of the outstanding office action. Applicant further respectfully requests entry of this amendment under 37 C.F.R. §1.116 as the amendment only amends the claims for better compliance with standard claim

drafting practice in the US, thus placing the claims in better form and reducing issues for appeal, and does not require further search or consideration.

Accordingly, in light of the above discussion and in view of the enclosed amendments, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested. If, however, there are any remaining unresolved issues that would prevent the issuance of the Notice of Allowance, the Examiner is urged to contact the undersigned at (203) 313-3094 in order to expedite prosecution of this application.

Respectfully submitted,

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